

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

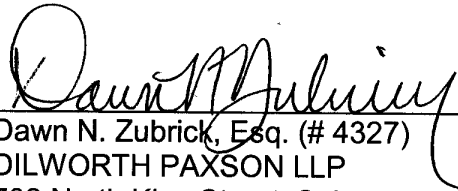
<p>EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,</p> <p>Plaintiff,</p> <p>vs.</p> <p>KMART CORPORATION,</p> <p>Defendant.</p>	<p>Civil Action No. 04-1315 (GMS)</p>
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**DEFENDANT KMART CORPORATION'S
MOTION TO DISMISS THE COMPLAINT**

Defendant Kmart Corporation hereby moves to dismiss the Complaint of plaintiff Equal Employment Opportunity Commission for failure to state a claim upon which relief can be granted, pursuant to Rule 12(c) of the Federal Rules of Civil Procedure, with prejudice, and for such other and further relief as the Court may deem just and proper.

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Attorneys for Defendant
Kmart Corporation

Dated: March 2, 2005

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CERTIFICATE OF SERVICE

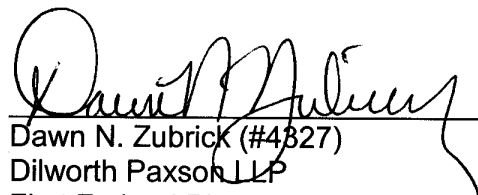
I hereby certify that, on March 2, 2005, I electronically filed Defendant Kmart's Motion to Dismiss the Complaint with the Clerk of Court using CM/ECF, which will send notification of such filing to the following:

Patricia Hannigan, Esquire
Assistant U.S. Attorney
U.S. Department of Justice
1007 Orange Street, Suite 700
Wilmington, Delaware 19899-2046

I hereby certify that, on March 2, 2005, I have also mailed, by United States Service, Kmart's Motion to Dismiss the Complaint to the following participants:

Patricia Hannigan, Esquire
Assistant U.S. Attorney
U.S. Department of Justice
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Wilmington, Delaware 19899-2046

Woody Anglade, Esquire
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Philadelphia District Office
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